

CREDIT UNION DIVISION[189]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 533.107, the Credit Union Division hereby gives Notice of Intended Action to amend Chapter 3, “Conversion of an Iowa-Chartered Credit Union to Another Charter Type”; to rescind Chapter 12, “Bylaw Amendment Voting Procedure—Mailed Ballot,” and to adopt a new Chapter 12, “Votes of the Membership”; and to rescind Chapter 16, “Director Election—Absentee Ballot Voting Procedure,” and Chapter 19, “Amend, Modify or Reverse Acts of the Board of Directors—Mailed Ballot Voting Procedure,” Iowa Administrative Code.

These provisions detail certain voting procedures for specific types of credit union membership votes and are being amended and consolidated to reflect the recent change in Iowa Code section 533.203 that permits the use of multiple methods of voting by credit unions. The statutory changes are reflected in an amended Chapter 3 and a new Chapter 12.

The Division will fully consider any written suggestions or comments on these proposed amendments by any interested person on or before June 28, 2013. Written material should be directed to the Iowa Credit Union Division, 200 E. Grand, Suite 370, Des Moines, Iowa 50309-1827; fax (515)725-0519.

There will be a public hearing on June 18, 2013, at 1 p.m. in the conference room in the Division’s offices at 200 E. Grand, Des Moines, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the proposed amendments.

Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Division and advise of specific needs.

The proposed amendments do not contain conditions for waiver but would be subject to the process outlined in Chapter 23, “Uniform Waiver and Variance Rules.”

After analysis and review of this rule making, the Division has determined that there will be no impact on jobs and no fiscal impact to the state. This rule making replaces rules detailing procedures for some types of voting by the membership in a credit union with a comprehensive set of procedures for all types of credit union membership votes conducted by credit unions.

These amendments are intended to implement Iowa Code sections 533.201(7), 533.201(8), 533.203, 533.203A, 533.208(3), 533.401(1), 533.401(3), 533.403(1), 533.405(1), 533.405(2), and 533.405(6).

The following amendments are proposed.

ITEM 1. Amend subrule 3.2(3) as follows:

3.2(3) Disclosure to members.

a. No credit union shall convert to a federal credit union without full disclosure to its members of the intents and purposes of conversion.

b. If the intent to undertake a second conversion to a mutual savings bank or a savings association is among the purposes for conversion to a federal credit union, those facts and all related information shall be fully disclosed to members.

c. If a further conversion to a stock institution is among the possible outcomes from the conversion, the converting Iowa-chartered credit union ~~must~~ shall fully and accurately disclose this possibility to its members.

ITEM 2. Amend subrules 3.3(1) to 3.3(4) as follows:

3.3(1) Any conversion proposal may be approved by the board of directors only upon the affirmative vote of a majority of the board. The board ~~must~~ shall then set a date for a vote on the proposal by the

members of the credit union and select the method of voting by a favorable vote of a majority of the board, according to the provisions of Iowa Code section 533.203.

3.3(2) The membership ~~must~~ shall approve the proposal to convert by the affirmative vote of a majority of those members who vote on such proposal. Each eligible member shall have one vote regarding the conversion proposal.

3.3(3) The vote of the members to convert ~~must be at a special meeting called for that purpose, must shall be in the manner prescribed in the bylaws and this chapter, and must satisfy the number of members necessary to constitute a quorum to convene a meeting of the members as prescribed in the bylaws.~~

3.3(4) The board of directors ~~must shall~~ notify the superintendent of any proposed conversion and within three days of an affirmative vote by the board on a conversion proposal. The board shall also notify the superintendent of any abandonment or disapproval of the conversion by the members or by the recipient chartering authority, the National Credit Union Administration, or applicable federal deposit insurer within seven days of a membership vote to abandon or disapprove the conversion, receipt of disapproval by a chartering authority, or other decision to abandon the conversion.

ITEM 3. Rescind rule 189—3.4(533) and adopt the following **new** rule in lieu thereof:

189—3.4(533) Notice to members and voting procedures.

3.4(1) Requirements. All conversion plans shall be submitted to the superintendent in accordance with 189—3.5(533). The members may not vote on the proposal until the credit union has received preliminary approval from the superintendent under 189—3.5(533), as well as the preliminary determination from the National Credit Union Administration on the proposition for conversion.

3.4(2) Vote by board of directors. The board of directors shall, by majority vote, select the method of voting for the membership vote on the conversion proposal in accordance with Iowa Code section 533.203. Each credit union member shall have a meaningful opportunity to vote in a membership vote. The board of directors shall vote to conduct the vote in whole by electronic voting only if all members have access to an electronic voting device. If the number of members who have opted to receive notices electronically is less than all members, the board may provide access to an electronic device in each credit union office for the members to vote electronically in order to satisfy the access requirement. Otherwise, the board shall also conduct the vote in part by mail-in ballot or in person at a meeting held for the purpose of voting, pursuant to the requirements of this rule.

3.4(3) Election committee. The board shall appoint an election committee of not fewer than seven members, none of whom may be from the board of directors or be a member of a director's immediate family or be an employee of the credit union or a member of an employee's immediate family.

a. It is the duty of the election committee to oversee balloting, to tabulate votes, and to ensure that each member shall only be allowed to vote once and that multiple ballots submitted by the same member are disqualified.

b. The election committee shall elect a chairperson from among the committee members. If the balloting includes a vote taken at a meeting of members, the chairperson of the election committee shall announce the results of the election at the meeting; otherwise, the chairperson shall certify the vote to the board within five days of the close of balloting.

c. No member or agent of the election committee shall reveal the manner in which any member voted.

d. If the board of directors, by majority vote, has elected to utilize electronic voting, the election committee shall test the integrity of the electronic voting system at regular intervals during the election period. In the event of a malfunction of the electronic voting system, the board may in its discretion order the election to be held in another form, consistent with Iowa Code section 533.203.

e. For electronic ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as registered in the electronic voting system.

f. For mail-in ballots, including absentee ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as they appear on the identification form, to place the verified identification form and the sealed ballot envelope in a place of safekeeping pending the count of the vote, and, in the case of a questionable or challenged identification

form, to retain the identification form and sealed ballot envelope together until the verification or challenge has been resolved.

3.4(4) Notice of balloting. The secretary shall set forth the conversion issue in a notice mailed to all members eligible to vote at least 90 calendar days, 60 calendar days, and 30 calendar days prior to the closing date of balloting.

a. The notice shall set forth the rules and procedures for voting, the date of the close of balloting, that balloting is subject to an affirmative vote of a majority of all members eligible to vote, and that no other vote on the subject shall be taken after the closing date of balloting.

(1) The close of balloting shall be at least five days prior to any meeting where voting will occur.

(2) Electronic ballots shall be submitted no later than midnight on the date balloting closes in order to be considered valid.

(3) Ballots mailed to the credit union shall be postmarked no later than the closing date of balloting and received within five business days after the closing date of balloting in order to be considered valid.

(4) Ballots hand-delivered to the credit union shall be received prior to the close of normal credit union business hours on the closing date of balloting in order to be considered valid.

(5) If more than one method of voting will be used, the notice shall also communicate, in bold-faced type, that members have the right to vote on the proposed amendment through any of the methods of voting designated by the board, but that members will only be allowed to vote once.

b. The notice shall do all of the following:

(1) Adequately describe the purpose and the subject matter of the vote.

(2) Accurately disclose the reasons for the conversion, stated in specific terms and not as generalities. If a purpose of conversion is to become a mutual savings bank, a savings association that is in mutual form, or a stock institution, the notice shall clearly inform the member of all of the following:

1. That the conversion, if approved, could lead to members' losing their ownership interest in the credit union.

2. That a credit union member has no more than one vote regardless of the number of shares held, but that in a mutual savings bank or savings association, voting may be based on the amount in the member's deposit accounts, commonly one vote granted for each \$100 on deposit.

3. That if the mutual savings bank or association converts to a stock institution, members will lose their ownership interests and voting rights automatically received as a member.

4. The method that will be used to provide for a pro-rata distribution of all unencumbered credit union retained and undivided earnings in excess of regulatory required reserves, as calculated pursuant to Iowa Code section 533.303, or in excess of a well-capitalized net worth level, calculated pursuant to the Federal Credit Union Act, 12 U.S.C. §1790d, whichever amount is greater. The pro-rata distribution shall occur on all shares of record as of the date of first notice to members under this rule and shall be based upon the member's share balance less any amount pledged to share-secured loans.

(3) Specify the costs of the conversion, such as changing the credit union name, examination and operating fees, attorney and consulting fees, tax liability, and any change or increase in compensation or economic benefit to directors or senior management officials, pursuant to subrule 3.10(2).

(4) Include an affirmative statement that, at the time of conversion to a federal credit union and for a period of five years thereafter, the credit union does or does not intend to do each of the following:

1. Convert to a mutual savings bank or savings association or a stock institution.

2. Provide any compensation to previously uncompensated members of the board of directors, or increase compensation or other conversion-related economic benefit, including stock options, special prices on stock, or first rights of refusal, to directors, senior management officials, or their agents, brokers, family members or other closely related parties.

3. Base member voting rights on account balances.

c. The notice shall not be included as part of any general mailing to members.

d. The notice may be sent electronically to those members who have opted to receive notices electronically.

e. The notice shall be posted in each credit union office 90 calendar days, 60 calendar days, and 30 calendar days before the close of balloting.

f. A member who joins the credit union subsequent to the 30-calendar-day notice and prior to the close of balloting and who is eligible to vote on the conversion shall be provided a copy of the 30-calendar-day notice and any balloting materials.

3.4(5) Mailed ballots. If the board voted by majority vote to conduct the vote in whole or in part by mailed ballot:

a. The secretary shall include the following balloting materials with the 30-calendar-day notice of balloting:

- (1) One ballot, clearly identified as the ballot.
- (2) One ballot envelope clearly marked “ballot” with instructions that the completed ballot shall be placed in that envelope and sealed.
- (3) One identification form to be completed so as to include the name, address, signature, and credit union account number of the voter.
- (4) One mailing envelope in which the voter, following instructions provided, shall insert the sealed “ballot” envelope and the identification form. The mailing envelope shall have postage prepaid and be preaddressed for return to the election committee.

b. If the credit union will also be conducting electronic voting, the mail-in ballot is not required for members who have opted to receive notices or statements electronically, and electronic mail may be used to provide the instructions and notices for the electronic voting procedure.

c. Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and placed in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee.

d. If additional voting will be conducted at a meeting of members, the tallies shall be placed in the ballot boxes, and the ballot boxes shall be resealed to be taken to the meeting. If no other voting is scheduled to occur, the election committee shall tally the total votes and certify the vote count to the board no later than five days after the closing date of balloting.

3.4(6) Electronic voting. If the board voted by majority vote to conduct the vote in whole or in part by electronic voting:

a. The secretary shall include with the notice of balloting specific instructions for electronic voting, including how to access and use the electronic voting system, and the period of time in which votes will be taken.

b. For those members who have opted to receive notices or statements electronically, the instructions required under this subrule may be communicated electronically.

c. The electronic voting shall be tallied by the election committee prior to any meeting where voting is also scheduled to take place, and the committee shall take the tallies to the meeting. If no meeting is scheduled for voting, the election committee shall tally the votes and certify the vote count to the board no later than five days after the closing date of balloting.

3.4(7) Absentee ballots—subsequent in-person vote at meeting. If the board of directors, by majority vote, has elected to conduct the vote only in person at a meeting of members, the board may also, by majority vote, utilize absentee ballots when, in the opinion of the board, it is in the best interest of the credit union and its membership.

a. The secretary shall include with the notice of balloting a statement that members may vote either in person at the meeting of members or by absentee ballot if the member submits a written or electronic request for an absentee ballot and returns the ballot prior to the close of balloting.

b. The secretary shall mail the balloting materials specified in paragraph 3.4(5) “a” to each member who is eligible to vote and who has submitted a written or electronic request for an absentee ballot.

c. Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and deposited in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee, the tallies placed in the ballot boxes, and the ballot boxes resealed to be taken to the meeting.

d. At the meeting of members, printed ballots shall be given to those members who have not voted. The completed ballots shall be deposited in ballot boxes placed in conspicuous locations by the election

committee before the meeting. After the members have been given an opportunity to vote, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of absentee ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.

3.4(8) *In-person vote at meeting.* If the board voted by majority vote to conduct the vote in whole or in part at a meeting of members, then printed ballots shall be distributed to those in attendance at the meeting who have not voted by another method, and the ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee. After those members have been given an opportunity to vote at the meeting, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of mailed or electronic ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.

3.4(9) *Preservation of ballots.* Ballots shall be preserved according to the requirements of 189—12.9(533). The 60-day retention period required by 189—subrule 12.9(2) shall run from the date the results are certified to the board by the election committee.

3.4(10) *Certification of vote by board of directors.* The board of directors shall certify to the superintendent the results of the membership vote and the written materials provided to members according to the requirements of 189—3.6(533).

3.4(11) *Publication of results.* The board shall inform the membership of the results of the vote, and of the superintendent's approval or disapproval, by conspicuously posting notice in each credit union office for a period of 60 days following receipt of the superintendent's decision under 189—3.7(533). In addition to posting the results in each credit union office, the board shall also communicate the results to the membership by at least one of the following methods:

- a. Include the results in the next mailing of the member's statement of account.
- b. Include the results in the credit union newsletter.
- c. Include the results in the sponsor's newsletter.
- d. Post a notice on the credit union's Web site.
- e. Place a notice in a newspaper of general circulation within the geographic area of operation of the credit union.

3.4(12) *Effective date of conversion.* The board shall notify the superintendent of the effective date of the conversion and shall file evidence of federal regulatory approval for the conversion pursuant to 189—3.9(533).

3.4(13) *Certificate of conversion.* Upon receipt of the certificate of conversion from the superintendent, the credit union shall file the certificate pursuant to 189—3.9(533).

3.4(14) *Termination of conversion proceedings.* At any time prior to completion of a conversion to a federal credit union, the board or the members as provided in the bylaws may call for a special meeting of the members to be held to terminate the conversion proceedings. The membership shall approve the proposal to terminate the conversion proceedings by the affirmative vote of a majority of those members who vote on the proposal.

ITEM 4. Amend subrules 3.5(1) to 3.5(3) as follows:

3.5(1) The credit union ~~must~~ shall provide the superintendent with notice of its intent to convert and a plan of conversion no less than 30 calendar days prior to the 90-calendar-day period preceding the ~~date of the membership vote on the conversion~~ close of balloting under 189—3.4(533).

3.5(2) The credit union ~~must~~ shall give notice to the superintendent and provide a plan of conversion describing the material features of the conversion, along with a copy of the filing the credit union has made with the federal regulatory agency by which the credit union seeks that agency's approval of the conversion. The credit union ~~must~~ shall include with the notice to the superintendent a copy of the notice the credit union ~~provides~~ proposes to provide to members under 189—3.4(533), as well as the proposed ballot ~~form~~ and related instructions and envelopes, all written materials the credit union has distributed or intends to distribute to its members, ~~a copy of the return envelope addressed to the election committee~~

marked “ballot” provided with the ballot form, and the procedures the election committee will follow in its receipt and counting of the ballots.

3.5(3) Superintendent’s preliminary determination.

a. The superintendent ~~will~~ shall make a preliminary determination regarding the methods and procedures applicable to the membership vote.

b. The superintendent ~~will~~ shall notify the credit union within 30 calendar days of receipt of the credit union’s notice of intent to convert if the superintendent disapproves of the proposed methods and procedures applicable to the membership vote.

c. The credit union’s submission of the notice of intent and plan of conversion does not relieve the credit union of its obligation to certify the results of the membership vote required by 189—3.6(533) or certify compliance with these rules as required by 189—3.3(533) or eliminate the right of the superintendent to disapprove the actual methods and procedures applicable to the membership vote if the credit union fails to conduct the membership vote in a fair and legal manner.

ITEM 5. Amend rule 189—3.6(533) as follows:

189—3.6(533) Certification of vote on conversion proposal.

3.6(1) The board of directors of the converting credit union ~~must~~ shall certify the results of the membership vote to the superintendent within ten calendar days after the vote is taken.

3.6(2) The board of directors ~~must~~ shall also certify at the same time that the notice, ballot and other written materials provided to members were identical to those submitted pursuant to 189—3.5(533) or provide copies of any new or revised materials and an explanation of the reasons for the changes.

ITEM 6. Amend subrule 3.7(1) as follows:

3.7(1) The superintendent ~~will~~ shall issue a determination that the methods and procedures applicable to the membership vote are approved or disapproved within ten calendar days of receipt from the credit union of the certification of the result of the membership vote required under 189—3.6(533).

ITEM 7. Amend subrules 3.9(2) to 3.9(6) as follows:

3.9(2) Submission of evidence of approval and effective date.

a. The board of directors of the credit union ~~must~~ shall file with the superintendent appropriate evidence of approval of the conversion by the appropriate federal agency having jurisdiction over the financial institution after conversion and from the federal agency providing deposit insurance to the converted financial institution, and, if applicable, a copy of the notice from the National Credit Union Administration canceling the credit union insurance certificate.

b. The board of directors of the credit union ~~must~~ shall also notify the superintendent of the actual date on which the conversion is to be effective.

3.9(3) Upon receipt of satisfactory proof that the Iowa-chartered credit union has complied with all applicable laws and regulations of this state and of the United States, the superintendent ~~will~~ shall cancel the charter of the credit union and issue a certificate of conversion ~~which must~~ that shall be filed and recorded in the county in which the credit union has its principal place of business and in the county in which its original articles of incorporation or certification of organization ~~were~~ was filed and recorded, if different.

3.9(4) Violations of law or intent to deceive or mislead.

a. In the event it is subsequently determined the conversion was accomplished contrary to applicable law, regulation or the requirements of this chapter, in whole or in part, or with the intent to deceive or mislead the members of the credit union or the superintendent, the superintendent ~~will~~ shall take immediate action to cause the conversion to be declared null and void, and to request from the appropriate regulatory authority that the converted institution be ordered to surrender its charter and be ~~thereupon~~ returned to the authority of the superintendent for reinstatement as a state charter, or other action.

b. The provisions of Iowa Code chapter 533 shall apply in the event it is determined that any director, officer, agent, employee or clerk of the credit union knowingly submitted, or made or exhibited false statements, papers or reports to the superintendent ~~or committed~~.

c. If during the conversion process any person commits any acts which might result in that person's being found to have engaged in act constituting a fraudulent practice under Iowa Code section 714.8, the matter shall be referred to the attorney general.

3.9(5) If the superintendent finds a material deviation from the provisions of this chapter, or from Iowa Code chapter 533, that would invalidate any steps taken in the conversion, the superintendent ~~will~~ shall promptly notify the credit union and the National Credit Union Administration of the nature of the adverse findings.

3.9(6) The conversion of the Iowa credit union to a federal credit union ~~will~~ shall not be effective and completed until final approval is given by the superintendent, any improper actions are cured, and corrective steps have been accomplished, if applicable.

ITEM 8. Amend rule 189—3.10(533) as follows:

189—3.10(533) Limit on compensation of officials.

3.10(1) No director or senior management official of an Iowa credit union ~~may~~ shall receive any economic benefit in connection with a plan of conversion or the actual conversion of the credit union, other than regular compensation and other usual benefits paid to directors or senior management officials in the ordinary course of business.

3.10(2) In connection with the notices to members required by this chapter, the converting credit union ~~must~~ shall disclose to the members the cost of the conversion, including any change or increase in compensation or economic benefit to directors or senior management officials of the credit union in the event the conversion process is accomplished.

ITEM 9. Amend **189—Chapter 3**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~section~~ sections 533.203 and 533.403.

ITEM 10. Rescind 189—Chapter 12 and adopt the following new chapter in lieu thereof:

CHAPTER 12
VOTES OF THE MEMBERSHIP

189—12.1(533) Voting requirements and eligibility.

12.1(1) All elections are determined by plurality vote.

12.1(2) A member shall have one vote regardless of the number of or class of shares held by the member. Jointly held ownership shares are entitled to one vote, and joint tenants shall not be permitted to cast more than one vote per ownership share jointly held.

12.1(3) Members shall not vote by proxy.

12.1(4) A member other than a natural person may cast a single vote through a delegated agent.

12.1(5) Members shall be at least 16 years of age by the date of the meeting in order to vote, sign nominating petitions, or sign petitions requesting special meetings.

12.1(6) Members shall be at least 18 years of age by the date of the meeting where the election or appointment will occur in order to hold an elected or appointed position.

189—12.2(533) Nomination procedures for the board of directors.

12.2(1) *Nominating committee.* If the board has determined that voting for directors at the annual meeting will be conducted via one or more methods other than only in-person voting at the meeting, then at least 120 days before each annual meeting, the chairperson of the board shall appoint a nominating committee of three or more members, none of whom are directors currently eligible for reelection or their immediate family members.

a. It is the duty of the nominating committee to nominate at least one member for each vacancy, including for any unexpired-term vacancy, for which elections are being held and to obtain a signed certificate from the members nominated that they are agreeable to the placing of their names in nomination, will accept office if elected, and will cooperate with any background check required by the credit union.

b. The nominating committee shall file its nominations with the secretary of the credit union board at least 90 days before the annual meeting.

12.2(2) *Nominations by petition.* Upon majority vote, the board of directors may decide to accept additional nominations by petition, instead of taking nominations from the floor at the annual meeting.

a. At least 90 days before the annual meeting, the secretary shall notify in writing all members eligible to vote that nominations for vacancies may be made by petition signed by at least 1 percent of the members, subject to a minimum of 20 members and a maximum of 200 members.

(1) The notice shall indicate that there will be no nominations from the floor at the annual meeting.

(2) The notice shall include a list of the nominating committee's nominees and a brief statement of the nominees' qualifications and biographical data in a form approved by the board of directors. Each nominee by petition shall submit a similar statement of qualifications and biographical data with the petition.

(3) Nominations by petition shall be accompanied by a signed certificate from the nominee stating that the nominee is agreeable to nomination, will serve if elected to office, and will cooperate with any background check required by the credit union.

(4) The period for receiving nominations by petition shall extend at least 30 days from the date that the notice is sent. Petitions shall be filed with the secretary of the credit union at least 60 days before the annual meeting.

(5) Nominations by petition which are received after the closing date, or which are otherwise incomplete because they do not include a statement of qualifications and biographical data, or certification agreeing to the nomination and indicating a willingness to serve, shall be disqualified by the board secretary. The secretary shall immediately notify the nominee of the disqualification and of the reason. A petition for a disqualified nominee may be refiled provided that all requirements, including the closing date for receiving nominations by petition, are met.

b. The notice may be included with the notice of annual meeting, in statements or newsletters, on the credit union Web site, or on signs posted in the credit union.

c. The secretary may use electronic mail to notify members who have opted to receive notices or statements electronically.

12.2(3) *Posting of nominations.* The secretary shall ensure that all nominations are posted in a conspicuous place in each credit union office at least 30 days but no more than 60 days before the annual meeting.

12.2(4) *Alternative schedule—voting only in person at annual meeting.* If the board of directors determines that voting at the annual meeting shall only be conducted in person, and nominations will be taken from the floor at the annual meeting, the chairperson of the board shall appoint a nominating committee of three or more members, none of whom are directors currently eligible for reelection or their immediate family members, at least 60 days before the annual meeting. Nominations shall be posted according to subrule 12.2(3).

189—12.3(533) Election procedures for the board of directors.

12.3(1) *Vote by board of directors.* The board of directors shall, by majority vote, select the method of voting for the membership vote for the election of directors, in accordance with Iowa Code section 533.203. Each credit union member shall have a meaningful opportunity to vote in a membership vote. The board of directors shall vote to conduct the vote in whole by electronic voting only if all members have access to an electronic voting device. If the number of members who have opted to receive notices electronically is less than all members, the board may provide access to an electronic device in each credit union office for the members to vote electronically in order to satisfy the access requirement. Otherwise, the board shall also conduct the vote in part by mail-in ballot or in person at the annual meeting, pursuant to the requirements of this rule.

12.3(2) *Election committee.* The board of directors shall appoint an election committee of not fewer than five members, none of whom may be a current director or nominee for office or an immediate family member of any director or nominee for office.

a. It is the duty of the election committee to oversee balloting, to tabulate votes, and to ensure that each member shall only be allowed to vote once and that multiple ballots submitted by the same member are disqualified.

b. The election committee shall elect a chairperson from among the committee members. The chairperson of the election committee shall announce the results of the election at the annual meeting.

c. No member or agent of the election committee shall reveal the manner in which any member voted.

d. If the board of directors, by majority vote, has elected to utilize electronic voting, the election committee shall test the integrity of the electronic voting system at regular intervals during the election period. In the event of a malfunction of the electronic voting system, the board may in its discretion order the election to be held in another form, consistent with Iowa Code section 533.203.

e. For electronic ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as registered in the electronic voting system.

f. For mail-in ballots, including absentee ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as they appear on the identification form, to place the verified identification form and the sealed ballot envelope in a place of safekeeping pending the count of the vote, and, in the case of a questionable or challenged identification form, to retain the identification form and sealed ballot envelope together until the verification or challenge has been resolved.

12.3(3) Notice of balloting. At least 20 days but not more than 30 days prior to the close of balloting, the secretary shall produce a notice of balloting.

a. The notice of balloting shall state the names of the candidates for the board of directors. The name of each candidate shall be followed by a brief statement of the candidate's qualifications and biographical data in a form approved by the board of directors.

b. If the board of directors elected to accept additional nominations by petition, then the notice of balloting shall state that additional nominations shall not be taken from the floor at the annual meeting. In this event, the board may vote to conduct the election in any form permitted by Iowa Code section 533.203.

c. If the board of directors did not elect to accept additional nominations by petition, then the notice of balloting shall state that additional nominations will be taken from the floor at the annual meeting. In this event, the board may only vote to conduct the election in person at the annual meeting, and not by mail-in ballot, electronic voting, absentee voting, or any combination permitted by Iowa Code section 533.203.

d. The notice shall set forth the rules and procedures for voting and the date of the close of balloting.

(1) The close of balloting shall be at least five days prior to any meeting where voting will occur.

(2) Electronic ballots shall be submitted no later than midnight on the date balloting closes in order to be considered valid.

(3) Ballots mailed to the credit union shall be postmarked no later than the closing date of balloting and received within five business days after the closing date of balloting in order to be considered valid.

(4) Ballots hand-delivered to the credit union shall be received prior to the close of normal credit union business hours on the closing date of balloting in order to be considered valid.

(5) If more than one method of voting will be used, the notice shall also communicate that members have the right to vote through any of the methods of voting designated by the board, but that members will only be allowed to vote once.

e. The notice may be included with notice of the annual meeting and in statements or newsletters, on the credit union Web site, or on signs posted in the credit union.

f. Electronic mail may be used to provide the notice of balloting to members who have opted to receive notices or statements electronically.

12.3(4) Mailed ballots. If the board of directors, by majority vote, has elected to conduct the election in whole or in part by mailed ballot, then the secretary shall send with the notice of balloting a mail-in ballot.

- a. The secretary shall include the following materials for balloting:
 - (1) One ballot, clearly identified as the ballot, on which the names of the candidates for the board of directors are printed in random order.
 - (2) One ballot envelope clearly marked “ballot” with instructions that the completed ballot shall be placed in that envelope and sealed.
 - (3) One identification form to be completed so as to include the name, address, signature, and credit union account number of the voter.
 - (4) One mailing envelope in which the voter, following instructions provided, shall insert the sealed “ballot” envelope and the identification form. The mailing envelope shall be preaddressed for return to the election committee.
 - b. If the credit union will also be conducting electronic voting, the mail-in ballot is not required for members who have opted to receive notices or statements electronically, and electronic mail may be used to provide the instructions for the electronic voting procedure.
 - c. Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and placed in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee.
 - d. If voting will also occur at the annual meeting, the ballot boxes shall be opened by and the vote tallied by the election committee, the tallies placed in the ballot boxes, and the ballot boxes resealed to be taken to the annual meeting. If voting is not scheduled to occur at the annual meeting, the election committee shall tally the votes and certify the vote count to the board no later than five days after the close of balloting.

12.3(5) *Electronic voting.* If the board of directors, by majority vote, has elected to conduct the election in whole or in part by electronic voting, then the secretary shall include with the notice of balloting specific instructions for electronic voting.

- a. The instruction sheet for electronic voting shall contain specific instructions for electronic voting, including how to access and use the electronic voting system, and the period of time in which votes will be taken.
 - b. For those members who have opted to receive notices or statements electronically, the instructions for electronic voting required under this subrule may be communicated electronically.
 - c. The electronic voting shall be tallied by the election committee. If voting will also occur at the annual meeting, then the results shall be verified at the meeting.
 - d. If voting is not scheduled to occur at the annual meeting, the election committee shall tally the votes and certify the vote count to the board no later than five days after the close of balloting.

12.3(6) *Absentee ballots—subsequent in-person vote at meeting.* If the board of directors, by majority vote, has elected to conduct the election only in person at the annual meeting, the board may also, by majority vote, utilize absentee ballots when no additional nominations will be taken from the floor at the annual meeting and when, in the opinion of the board, it is in the best interest of the credit union and its membership.

- a. The secretary shall include with the notice of annual meeting a notification that members may vote either in person at the annual meeting or by absentee ballot if the member submits a written or electronic request for an absentee ballot and returns the ballot prior to the close of balloting.
 - b. The secretary shall mail the balloting materials specified in paragraph 12.3(4)“a” to each member who is eligible to vote and who has submitted a written or electronic request for an absentee ballot.
 - c. Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and deposited in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee, the tallies placed in the ballot boxes, and the ballot boxes resealed to be taken to the annual meeting.
 - d. At the meeting of members, printed ballots shall be given to those members who have not voted. The completed ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting. After the members have been given an opportunity to vote, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any

previous count of absentee ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.

12.3(7) *Nominations from the floor—subsequent in-person vote at meeting.* If the board of directors did not elect to accept additional nominations by petition, then additional nominations shall be taken from the floor at the annual meeting, provided that no electronic, mail-in, or absentee balloting has occurred.

a. At the annual meeting, printed ballots shall be distributed to those in attendance after additional nominations are taken from the floor, or the ballots shall also have blank spaces to write in the additional names. The ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting.

b. After members have been given an opportunity to vote, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee.

c. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the annual meeting.

12.3(8) *In-person vote at meeting.* If the board of directors elected to accept additional nominations by petition, and if the board of directors also chose to conduct the vote in whole or in part by in-person voting at the annual meeting, printed ballots shall be distributed to those in attendance at the annual meeting who have not voted.

a. The ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting.

b. After those members have been given an opportunity to vote, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of mailed or electronic ballots.

c. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the annual meeting.

12.3(9) *Preservation of ballots.* Ballots shall be preserved according to the provisions of 189—12.9(533). The 60-day retention period required by subrule 12.9(2) shall run from the date the results are certified to the board by the election committee.

12.3(10) *Publication of results.* Results of the election shall be reported to members according to the provisions of 189—12.10(533). The 60-day posting period required by subrule 12.10(1) shall run from the date the results are certified to the board by the election committee.

189—12.4(533) *Vote to amend bylaws or articles of incorporation.*

12.4(1) *Requirements.* Voting on amendments of bylaws and articles of incorporation shall be conducted in accordance with Iowa Code section 533.201. All amendments shall be approved by the superintendent before the amendments become effective.

12.4(2) *Vote by board of directors.* If the board of directors has elected upon a favorable vote of the majority that the board of directors shall vote on the amendment, then the amendment is adopted by a favorable vote of the majority of the board.

12.4(3) *Membership vote.* The board of directors may vote to conduct the vote on the amendment by a method other than a majority vote of the board of directors, as provided in Iowa Code section 533.201. Each credit union member shall have a meaningful opportunity to vote in a membership vote. The board of directors shall vote to conduct the vote in whole by electronic voting only if all members have access to an electronic voting device. If the number of members who have opted to receive notices electronically is less than all members, the board may provide access to an electronic device in each credit union office for the members to vote electronically in order to satisfy the access requirement. Otherwise, the board shall also conduct the vote in part by mail-in ballot or in person at a meeting held for the purpose of voting, pursuant to the requirements of this rule.

12.4(4) *Election committee.* If the board of directors votes to conduct the vote on the amendment by a method other than a majority vote of the board of directors, as provided in Iowa Code section 533.201, then the board shall appoint an election committee of not fewer than five members, none of whom may be directors.

a. It is the duty of the election committee to oversee balloting, to tabulate votes, and to ensure that each member shall only be allowed to vote once and that multiple ballots submitted by the same member are disqualified.

b. The election committee shall elect a chairperson from among the committee members. The chairperson of the election committee shall announce the results of the vote at the annual meeting.

c. No member or agent of the election committee shall reveal the manner in which any member voted.

d. If the board of directors, by majority vote, has elected to utilize electronic voting, the election committee shall test the integrity of the electronic voting system at regular intervals during the election period. In the event of a malfunction of the electronic voting system, the board may in its discretion order the election to be held in another form, consistent with Iowa Code section 533.201.

e. For electronic ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as registered in the electronic voting system.

f. For mail-in ballots, including absentee ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as they appear on the identification form, to place the verified identification form and the sealed ballot envelope in a place of safekeeping pending the count of the vote, and, in the case of a questionable or challenged identification form, to retain the identification form and sealed ballot envelope together until the verification or challenge has been resolved.

12.4(5) Notice of balloting. The secretary shall set forth the proposed amendment in its entirety in a notice to all members eligible to vote at least 20 days but not more than 30 days prior to the closing date of balloting.

a. The notice shall set forth the rules and procedures for voting, the date of the close of balloting, that balloting is subject to an affirmative vote of a majority of all members eligible to vote, and that no other vote on the subject shall be taken after the closing date of balloting. The notice shall also contain a summary of the board's reasons for recommending the amendment.

(1) The close of balloting shall be at least five days prior to any meeting where voting will occur.

(2) Electronic ballots shall be submitted no later than midnight on the date balloting closes in order to be considered valid.

(3) Ballots mailed to the credit union shall be postmarked no later than the closing date of balloting and received within five business days after the closing date of balloting in order to be considered valid.

(4) Ballots hand-delivered to the credit union shall be received prior to the close of normal credit union business hours on the closing date of balloting in order to be considered valid.

(5) If more than one method of voting will be used, the notice shall also communicate that members have the right to vote on the proposed amendment through any of the methods of voting designated by the board, but that members will only be allowed to vote once.

b. The notice may be included in statements or newsletters, on the credit union Web site, or on signs posted in the credit union.

c. The notice may be sent electronically to those members who have opted to receive notices electronically.

12.4(6) Mailed ballots. If the board of directors has elected, upon a favorable vote of the majority, to conduct a vote on the proposed amendment in whole or in part via mailed ballot:

a. The secretary shall include the following materials for balloting with the notice of balloting:

(1) One ballot, clearly identified as the ballot, on which the proposed amendment is printed in full.

(2) One ballot envelope clearly marked "ballot" with instructions that the completed ballot shall be placed in that envelope and sealed.

(3) One identification form to be completed so as to include the name, address, signature, and credit union account number of the voter.

(4) One mailing envelope in which the voter, following instructions provided, shall insert the sealed "ballot" envelope and the identification form. The mailing envelope shall be preaddressed for return to the election committee.

b. If the credit union will also be conducting electronic voting, the mail-in ballot is not required for members who have opted to receive notices or statements electronically, and electronic mail may be used to provide the instructions and notices for the electronic voting procedure.

c. Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and placed in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee.

d. If additional voting will be conducted at a meeting of members, the tallies shall be placed in the ballot boxes, and the ballot boxes shall be resealed to be taken to the meeting. If voting is not scheduled to occur at a meeting, the election committee shall tally the total votes and certify the vote count to the board no later than five days after the closing date of balloting.

12.4(7) *Electronic voting.* If the board of directors, by majority vote, has elected to conduct the vote in whole or in part by electronic voting, then the secretary shall include with the notice of balloting specific instructions for electronic voting to each member eligible to vote.

a. The instruction sheet for electronic voting shall contain specific instructions for electronic voting, including how to access and use the electronic voting system, and the period of time in which votes will be taken.

b. For those members who have opted to receive notices or statements electronically, the instructions required under this subrule may be communicated electronically.

c. The electronic voting shall be tallied by the election committee. If voting will also occur at a meeting, then the results shall be verified at the meeting.

d. If voting is not scheduled to occur at a meeting, the election committee shall tally the votes and certify the vote count to the board no later than five days after the closing date of balloting.

12.4(8) *Absentee ballots—subsequent in-person vote at meeting.* If the board of directors, by majority vote, has elected to conduct the vote only in person at a meeting of members, the board may also, by majority vote, utilize absentee ballots when, in the opinion of the board, it is in the best interest of the credit union and its membership.

a. The secretary shall include with the notice of balloting a statement that members may vote either in person at the meeting of members or by absentee ballot if the member submits a written or electronic request for an absentee ballot and returns the ballot prior to the close of balloting.

b. The secretary shall mail the balloting materials specified in paragraph 12.4(6)“a” to each member who is eligible to vote and who has submitted a written or electronic request for an absentee ballot.

c. Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and deposited in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee, the tallies placed in the ballot boxes, and the ballot boxes resealed to be taken to the meeting.

d. At the meeting of members, printed ballots shall be given to those members who have not voted. The completed ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting. After the members have been given an opportunity to vote, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of absentee ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.

12.4(9) *In-person voting at meeting.* If the board of directors has elected, upon a favorable vote of the majority, to present the proposed amendment for a vote in whole or in part at a meeting of members, printed ballots shall be given at the meeting to those members who have not voted by another method.

a. The completed ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting.

b. After the members have been given an opportunity to vote, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of mailed or electronic ballots.

c. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.

12.4(10) *Preservation of ballots.* Ballots shall be preserved according to the requirements of 189—12.9(533). The 60-day retention period required by subrule 12.9(2) shall run from the date of final approval or denial of the amendment by the superintendent.

12.4(11) *Submission to superintendent.* The board of directors shall submit the amendment to the superintendent for approval before the amendment becomes effective. The board shall submit the following documentation in support of its request for approval:

a. A certified copy of the board minutes which contain the recommendation to submit the amendment to a vote of the membership.

b. A certified copy of the notices provided to members.

c. A certified copy of any ballots provided to members.

d. A certified statement, including the vote count, that a majority of the eligible members voted in favor of the proposed amendment.

12.4(12) *Publication of results.* The board shall inform the membership of the results of the vote and whether the amendment received the approval of the superintendent, according to the provisions of 189—12.10(533). The 60-day posting period required by subrule 12.10(1) shall run from the date of final approval or denial of the amendment by the superintendent.

189—12.5(533) *Vote to modify, amend, or reverse an act of the board of directors or to instruct the board to take action.*

12.5(1) *Vote of members at meeting.* The majority of members present at any meeting may vote to modify, amend, or reverse any act of the board of directors or instruct the board to take action not inconsistent with the articles of incorporation, the bylaws, or the Iowa credit union Act or administrative rules.

12.5(2) *Subsequent vote of membership.* In order to be binding upon the board of directors, any action taken by the membership to modify, amend, or reverse an act of the board, or to instruct the board to take action, requires an affirmative vote of a majority of all eligible members obtained by submitting the modification, amendment, reversal, or instruction to the members for a vote.

a. After a majority of members present at a meeting have voted to modify, amend, or reverse any act of the board of directors, or to instruct the board to take action not inconsistent with the articles, the bylaws, or the Iowa credit union Act or administrative rules, the board of directors shall meet to determine the method of voting for the membership vote and shall, within 60 days of the date of the meeting where the majority of members voted to modify, amend, or reverse an act of the board of directors, or to instruct the board to take action, submit the issue to all eligible voters of record as of the date of the meeting.

b. The board of directors shall, by majority vote, select the method of voting for the membership vote, in accordance with Iowa Code section 533.203. Each credit union member shall have a meaningful opportunity to vote in a membership vote. The board of directors shall vote to conduct the vote in whole by electronic voting only if all members have access to an electronic voting device. If the number of members who have opted to receive notices electronically is less than all members, the board may provide access to an electronic device in each credit union office for the members to vote electronically in order to satisfy the access requirement. Otherwise, the board shall also conduct the vote in part by mail-in ballot or in person at a meeting held for the purpose of voting, pursuant to the requirements of this rule.

c. If a simple majority of all eligible members vote in favor of the amendment, modification, reversal or instruction to take action, the vote of the members taken at the annual or special meeting shall be considered affirmed, and the board of directors shall take immediate action to comply with the directions of the membership. However, if a simple majority of all eligible members failed to vote in favor of the amendment, modification, reversal or instruction to take action, the vote of the members taken at the annual or special meeting is not affirmed, and the prior action of the board of directors shall be considered upheld.

12.5(3) *Election committee.* The board shall appoint an election committee of not fewer than five members, no more than two of whom may be from the board of directors.

a. It is the duty of the election committee to oversee balloting, to tabulate votes, and to ensure that each member shall only be allowed to vote once and that multiple ballots submitted by the same member are disqualified.

b. The election committee shall elect a chairperson from among the committee members. If the balloting includes a vote taken at a meeting of members, the chairperson of the election committee shall announce the results of the election at the meeting; otherwise, the chairperson shall certify the vote to the board within five days of the close of balloting.

c. No member or agent of the election committee shall reveal the manner in which any member voted.

d. If the board of directors, by majority vote, has elected to utilize electronic voting, the election committee shall test the integrity of the electronic voting system at regular intervals during the election period. In the event of a malfunction of the electronic voting system, the board may in its discretion order the election to be held in another form, consistent with Iowa Code section 533.203.

e. For electronic ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as registered in the electronic voting system.

f. For mail-in ballots, including absentee ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as they appear on the identification form, to place the verified identification form and the sealed ballot envelope in a place of safekeeping pending the count of the vote, and, in the case of a questionable or challenged identification form, to retain the identification form and sealed ballot envelope together until the verification or challenge has been resolved.

12.5(4) Notice of balloting. The secretary shall set forth the proposed amendment, modification, reversal or instruction to take action in its entirety in a notice to all members eligible to vote at least 20 days but not more than 30 days prior to the closing date of balloting.

a. The notice shall set forth the rules and procedures for voting, the date of the close of balloting, that balloting is subject to an affirmative vote of a majority of all members eligible to vote, and that no other vote on the subject shall be taken after the closing date of balloting. The notice shall also contain a summary of the board's reasons for its action or inaction, as well as a summary of the reasons, if known, for the vote to amend, modify, or reverse the board action, or to instruct the board to take action.

(1) The close of balloting shall be at least five days prior to any meeting where voting will occur.

(2) Electronic ballots shall be submitted no later than midnight on the date balloting closes in order to be considered valid.

(3) Ballots mailed to the credit union shall be postmarked no later than the closing date of balloting and received within five business days after the closing date of balloting in order to be considered valid.

(4) Ballots hand-delivered to the credit union shall be received prior to the close of normal credit union business hours on the closing date of balloting in order to be considered valid.

(5) If more than one method of voting will be used, the notice shall also communicate that members have the right to vote through any of the methods of voting designated by the board, but that members will only be allowed to vote once.

b. The notice may be included in statements or newsletters, on the credit union Web site, or on signs posted in the credit union.

c. The notice may be sent electronically to those members who have opted to receive notices electronically.

12.5(5) Mailed ballots. If the board voted by majority vote to conduct the vote in whole or in part by mailed ballot:

a. The secretary shall include the following balloting materials with the notice of balloting:

(1) One ballot, clearly identified as the ballot, on which the proposed amendment, modification, or reversal, or instruction to the board to take action, is printed in full.

(2) One ballot envelope clearly marked "ballot" with instructions that the completed ballot shall be placed in that envelope and sealed.

(3) One identification form to be completed so as to include the name, address, signature, and credit union account number of the voter.

(4) One mailing envelope in which the voter, following instructions provided, shall insert the sealed “ballot” envelope and the identification form. The mailing envelope shall be preaddressed for return to the election committee.

b. If the credit union will also be conducting electronic voting, the mail-in ballot is not required for members who have opted to receive notices or statements electronically, and electronic mail may be used to provide the instructions and notices for the electronic voting procedure.

c. Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and placed in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee.

d. If additional voting will be conducted at a meeting of members, the tallies shall be placed in the ballot boxes, and the ballot boxes shall be resealed to be taken to the meeting. If no other voting is scheduled to occur, the election committee shall tally the total votes and certify the vote count to the board no later than five days after the closing date of balloting.

12.5(6) *Electronic voting.* If the board voted by majority vote to conduct the vote in whole or in part by electronic voting:

a. The secretary shall include with the notice of balloting specific instructions for electronic voting, including how to access and use the electronic voting system, and the period of time in which votes will be taken.

b. For those members who have opted to receive notices or statements electronically, the instructions required under this subrule may be communicated electronically.

c. The electronic voting shall be tallied by the election committee prior to any meeting where voting is also scheduled to take place, and the committee shall take the tallies to the meeting. If no meeting is scheduled for voting, the election committee shall tally the votes and certify the vote count to the board no later than five days after the closing date of balloting.

12.5(7) *Absentee ballots—subsequent in-person vote at meeting.* If the board of directors, by majority vote, has elected to conduct the vote only in person at a meeting of members, the board may also, by majority vote, utilize absentee ballots when, in the opinion of the board, it is in the best interest of the credit union and its membership.

a. The secretary shall include with the notice of balloting a statement that members may vote either in person at the meeting of members or by absentee ballot if the member submits a written or electronic request for an absentee ballot and returns the ballot prior to the close of balloting.

b. The secretary shall mail the balloting materials specified in paragraph 12.5(5) “a” to each member who is eligible to vote and who has submitted a written or electronic request for an absentee ballot.

c. Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and deposited in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee, the tallies placed in the ballot boxes, and the ballot boxes resealed to be taken to the meeting.

d. At the meeting of members, printed ballots shall be given to those members who have not voted. The completed ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting. After the members have been given an opportunity to vote, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of absentee ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.

12.5(8) *In-person vote at meeting.* If the board voted by majority vote to conduct the vote in whole or in part at a meeting of members, then printed ballots on which the proposed amendment, modification, or reversal, or instruction to the board to take action, is printed in full shall be distributed to those in attendance at the meeting who have not voted by another method, and the ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee. After those members have been given an opportunity to vote at the meeting, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of mailed or electronic ballots.

The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.

12.5(9) *Preservation of ballots.* Ballots shall be preserved according to the requirements of 189—12.9(533). The 60-day retention period required by subrule 12.9(2) shall run from the date the results are certified to the board by the election committee.

12.5(10) *Publication of results.* The board shall inform the membership of the results of the vote according to the provisions of 189—12.10(533). The 60-day posting period required by subrule 12.10(1) shall run from the date the results are certified to the board by the election committee.

189—12.6(533) *Vote on merger.*

12.6(1) *Vote by board of directors.* A state credit union that seeks to merge with another credit union shall proceed pursuant to a plan agreed upon by a favorable vote of a majority of directors.

12.6(2) *Subsequent vote of the membership.* Following a vote by the board of directors to merge with another credit union, the board shall submit the merger to a vote of the membership of the merging credit union unless the superintendent finds that an emergency exists justifying the waiver of the membership vote.

a. The board of the continuing credit union shall, within three days of voting to merge, notify the superintendent of the merger vote.

b. After the superintendent has given preliminary approval to the merger, the board of the merging credit union shall submit the issue within 30 days to all eligible voters of record as of the date of the vote by the board of directors. The board of directors shall, by majority vote, select the method of voting for the membership vote, in accordance with Iowa Code section 533.203. Each credit union member shall have a meaningful opportunity to vote in a membership vote. The board of directors shall vote to conduct the vote in whole by electronic voting only if all members have access to an electronic voting device. If the number of members who have opted to receive notices electronically is less than all members, the board may provide access to an electronic device in each credit union office for the members to vote electronically in order to satisfy the access requirement. Otherwise, the board shall also conduct the vote in part by mail-in ballot or in person at a meeting held for the purpose of voting, pursuant to the requirements of this rule.

c. The approval of the merger is not final until approved by the superintendent after the membership vote of the merging credit union.

12.6(3) *Election committee.* The board shall appoint an election committee of not fewer than five members, no more than two of whom may be from the board of directors.

a. It is the duty of the election committee to oversee balloting, to tabulate votes, and to ensure that each member shall only be allowed to vote once and that multiple ballots submitted by the same member are disqualified.

b. The election committee shall elect a chairperson from among the committee members. If the balloting includes a vote taken at a meeting of members, the chairperson of the election committee shall announce the results of the vote at the meeting; otherwise, the chairperson shall certify the vote to the board within five days of the close of balloting.

c. No member or agent of the election committee shall reveal the manner in which any member voted.

d. If the board of directors, by majority vote, has elected to utilize electronic voting, the election committee shall test the integrity of the electronic voting system at regular intervals during the election period. In the event of a malfunction of the electronic voting system, the board may in its discretion order the election to be held in another form, consistent with Iowa Code section 533.203.

e. For electronic ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as registered in the electronic voting system.

f. For mail-in ballots, including absentee ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as they appear on the identification form, to place the verified identification form and the sealed ballot envelope in a place of safekeeping pending the count of the vote, and, in the case of a questionable or challenged identification

form, to retain the identification form and sealed ballot envelope together until the verification or challenge has been resolved.

12.6(4) Notice of balloting. The secretary shall set forth the proposed merger in a notice to all members eligible to vote at least 20 days but not more than 30 days prior to the closing date of balloting.

a. The notice shall set forth the rules and procedures for voting, the date of the close of balloting, that balloting is subject to an affirmative vote of a majority of all members eligible to vote, and that no other vote on the subject shall be taken after the closing date of balloting. The notice shall also contain a summary of the board's reasons for voting to merge.

(1) The close of balloting shall be at least five days prior to any meeting where voting will occur.

(2) Electronic ballots shall be submitted no later than midnight on the date balloting closes in order to be considered valid.

(3) Ballots mailed to the credit union shall be postmarked no later than the closing date of balloting and received within five business days after the closing date of balloting in order to be considered valid.

(4) Ballots hand-delivered to the credit union shall be received prior to the close of normal credit union business hours on the closing date of balloting in order to be considered valid.

(5) If more than one method of voting will be used, the notice shall also communicate that members have the right to vote on the proposed merger through any of the methods of voting designated by the board, but that members will only be allowed to vote once.

b. The notice may be included in statements or newsletters, on the credit union Web site, or on signs posted in the credit union.

c. The notice may be sent electronically to those members who have opted to receive notices electronically.

12.6(5) Mailed ballots. If the board voted by majority vote to conduct the vote in whole or in part by mailed ballot:

a. The secretary shall include the following balloting materials with the notice of balloting:

(1) One ballot, clearly identified as the ballot.

(2) One ballot envelope clearly marked "ballot" with instructions that the completed ballot shall be placed in that envelope and sealed.

(3) One identification form to be completed so as to include the name, address, signature, and credit union account number of the voter.

(4) One mailing envelope in which the voter, following instructions provided, shall insert the sealed "ballot" envelope and the identification form. The mailing envelope shall be preaddressed for return to the election committee.

b. If the credit union will also be conducting electronic voting, the mail-in ballot is not required for members who have opted to receive notices or statements electronically, and electronic mail may be used to provide the instructions and notices for the electronic voting procedure.

c. Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and placed in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee.

d. If additional voting will be conducted at a meeting of members, the tallies shall be placed in the ballot boxes, and the ballot boxes shall be resealed to be taken to the meeting. If no other voting is scheduled to occur, the election committee shall tally the total votes and certify the vote count to the board no later than five days after the closing date of balloting.

12.6(6) Electronic voting. If the board voted by majority vote to conduct the vote in whole or in part by electronic voting:

a. The secretary shall include with the notice of balloting specific instructions for electronic voting, including how to access and use the electronic voting system, and the period of time in which votes will be taken.

b. For those members who have opted to receive notices or statements electronically, the instructions required under this subrule may be communicated electronically.

c. The electronic voting shall be tallied by the election committee prior to any meeting where voting is also scheduled to take place, and the committee shall take the tallies to the meeting. If no

meeting is scheduled for voting, the election committee shall tally the votes and certify the vote count to the board no later than five days after the closing date of balloting.

12.6(7) *Absentee ballots—subsequent in-person vote at meeting.* If the board of directors, by majority vote, has elected to conduct the vote only in person at a meeting of members, the board may also, by majority vote, utilize absentee ballots when, in the opinion of the board, it is in the best interest of the credit union and its membership.

a. The secretary shall include with the notice of balloting a statement that members may vote either in person at the meeting of members or by absentee ballot if the member submits a written or electronic request for an absentee ballot and returns the ballot prior to the close of balloting.

b. The secretary shall mail the balloting materials specified in paragraph 12.6(5) “a” to each member who is eligible to vote and who has submitted a written or electronic request for an absentee ballot.

c. Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and deposited in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee, the tallies placed in the ballot boxes, and the ballot boxes resealed to be taken to the meeting.

d. At the meeting of members, printed ballots shall be given to those members who have not voted. The completed ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting. After the members have been given an opportunity to vote, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of absentee ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.

12.6(8) *In-person vote at meeting.* If the board voted by majority vote to conduct the vote in whole or in part at a meeting of members, then printed ballots shall be distributed to those in attendance at the meeting who have not voted by another method, and the ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee. After those members have been given an opportunity to vote at the meeting, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of mailed or electronic ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.

12.6(9) *Preservation of ballots.* Ballots shall be preserved according to the requirements of 189—12.9(533). The 60-day retention period required by subrule 12.9(2) shall run from the date the results are certified to the board by the election committee.

12.6(10) *Submission to superintendent.* The board of directors shall submit the merger to the superintendent for approval before the merger becomes effective. The board shall submit the following documentation in support of its request for approval:

a. A certified copy of the board minutes which contain the vote of the board of directors to approve the merger and to submit the merger to a vote of the membership.

b. A certified copy of the notices provided to members.

c. A certified copy of any ballots provided to members.

d. A certified statement, including the vote count, that a majority of the eligible members voted in favor of the proposed merger.

12.6(11) *Publication of results.* The board shall inform the membership of the results of the vote according to the provisions of 189—12.10(533). The 60-day posting period required by subrule 12.10(1) shall run from the date the results are certified to the board by the election committee.

189—12.7(533) *Vote on voluntary dissolution.*

12.7(1) *Vote of board of directors.* A state credit union that seeks to dissolve shall proceed pursuant to a plan agreed upon by a favorable vote of a majority of directors. Within three days of the vote and prior to sending notice of the membership vote, the board of directors shall notify the superintendent of the intention to dissolve.

12.7(2) *Subsequent vote of the membership.* Following a vote by the board of directors to dissolve, the board shall submit the dissolution to a vote of the membership.

- a.* The board shall submit the issue to the membership within 30 days of voting to dissolve.
- b.* The board shall submit the issue to all eligible voters of record as of the date of the vote by the board of directors.
- c.* The board of directors shall, by majority vote, select the method of voting for the membership vote, in accordance with Iowa Code section 533.203. Each credit union member shall have a meaningful opportunity to vote in a membership vote. The board of directors shall vote to conduct the vote in whole by electronic voting only if all members have access to an electronic voting device. If the number of members who have opted to receive notices electronically is less than all members, the board may provide access to an electronic device in each credit union office for the members to vote electronically in order to satisfy the access requirement. Otherwise, the board shall also conduct the vote in part by mail-in ballot or in person at a meeting held for the purpose of voting, pursuant to the requirements of this rule.
- d.* The approval of the dissolution is not final until the superintendent issues a certificate of dissolution.

12.7(3) *Election committee.* The board shall appoint an election committee of not fewer than five members, no more than two of whom may be from the board of directors.

- a.* It is the duty of the election committee to oversee balloting, to tabulate votes, and to ensure that each member shall only be allowed to vote once and that multiple ballots submitted by the same member are disqualified.
- b.* The election committee shall elect a chairperson from among the committee members. If the balloting includes a vote taken at a meeting of members, the chairperson of the election committee shall announce the results of the election at the meeting; otherwise, the chairperson shall certify the vote to the board within five days of the close of balloting.
- c.* No member or agent of the election committee shall reveal the manner in which any member voted.
- d.* If the board of directors, by majority vote, has elected to utilize electronic voting, the election committee shall test the integrity of the electronic voting system at regular intervals during the election period. In the event of a malfunction of the electronic voting system, the board may in its discretion order the election to be held in another form, consistent with Iowa Code section 533.203.
- e.* For electronic ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as registered in the electronic voting system.
- f.* For mail-in ballots, including absentee ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as they appear on the identification form, to place the verified identification form and the sealed ballot envelope in a place of safekeeping pending the count of the vote, and, in the case of a questionable or challenged identification form, to retain the identification form and sealed ballot envelope together until the verification or challenge has been resolved.

12.7(4) *Notice of balloting.* The secretary shall set forth the proposed dissolution in a notice to all members eligible to vote at least 20 days but not more than 30 days prior to the closing date of balloting.

- a.* The notice shall set forth the rules and procedures for voting, the date of the close of balloting, that balloting is subject to an affirmative vote of a majority of all members eligible to vote, and that no other vote on the subject shall be taken after the closing date of balloting. The notice shall also contain a summary of the board's reasons for voting for the voluntary dissolution.
 - (1) The close of balloting shall be at least five days prior to any meeting where voting will occur.
 - (2) Electronic ballots shall be submitted no later than midnight on the date balloting closes in order to be considered valid.
 - (3) Ballots mailed to the credit union shall be postmarked no later than the closing date of balloting and received within five business days after the closing date of balloting in order to be considered valid.
 - (4) Ballots hand-delivered to the credit union shall be received prior to the close of normal credit union business hours on the closing date of balloting in order to be considered valid.

(5) If more than one method of voting will be used, the notice shall also communicate that members have the right to vote on the proposed dissolution through any of the methods of voting designated by the board, but that members will only be allowed to vote once.

b. The notice may be included in statements or newsletters, on the credit union Web site, or on signs posted in the credit union.

c. The notice may be sent electronically to those members who have opted to receive notices electronically.

12.7(5) Mailed ballots. If the board voted by majority vote to conduct the vote in whole or in part by mailed ballot:

a. The secretary shall include the following balloting materials with the notice of balloting:

(1) One ballot, clearly identified as the ballot.

(2) One ballot envelope clearly marked “ballot” with instructions that the completed ballot shall be placed in that envelope and sealed.

(3) One identification form to be completed so as to include the name, address, signature, and credit union account number of the voter.

(4) One mailing envelope in which the voter, following instructions provided, shall insert the sealed “ballot” envelope and the identification form. The mailing envelope shall be preaddressed for return to the election committee.

b. If the credit union will also be conducting electronic voting, the mail-in ballot is not required for members who have opted to receive notices or statements electronically, and electronic mail may be used to provide the instructions and notices for the electronic voting procedure.

c. Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and placed in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee.

d. If additional voting will be conducted at a meeting of members, the tallies shall be placed in the ballot boxes, and the ballot boxes shall be resealed to be taken to the meeting. If no other voting is scheduled to occur, the election committee shall tally the total votes and certify the vote count to the board no later than five days after the closing date of balloting.

12.7(6) Electronic voting. If the board voted by majority vote to conduct the vote in whole or in part by electronic voting:

a. The secretary shall include with the notice of balloting specific instructions for electronic voting, including how to access and use the electronic voting system, and the period of time in which votes will be taken.

b. For those members who have opted to receive notices or statements electronically, the instructions required under this subrule may be communicated electronically.

c. The electronic voting shall be tallied by the election committee prior to any meeting where voting is also scheduled to take place, and the committee shall take the tallies to the meeting. If no meeting is scheduled for voting, the election committee shall tally the votes and certify the vote count to the board no later than five days after the closing date of balloting.

12.7(7) Absentee ballots—subsequent in-person vote at meeting. If the board of directors, by majority vote, has elected to conduct the vote only in person at a meeting of members, the board may also, by majority vote, utilize absentee ballots when, in the opinion of the board, it is in the best interest of the credit union and its membership.

a. The secretary shall include with the notice of balloting a statement that members may vote either in person at the meeting of members or by absentee ballot if the member submits a written or electronic request for an absentee ballot and returns the ballot prior to the close of balloting.

b. The secretary shall mail the balloting materials specified in paragraph 12.7(5) “a” to each member who is eligible to vote and who has submitted a written or electronic request for an absentee ballot.

c. Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and deposited in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the

election committee, the tallies placed in the ballot boxes, and the ballot boxes resealed to be taken to the meeting.

d. At the meeting of members, printed ballots shall be given to those members who have not voted. The completed ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting. After the members have been given an opportunity to vote, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of absentee ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.

12.7(8) *In-person vote at meeting.* If the board voted by majority vote to conduct the vote in whole or in part at a meeting of members, then printed ballots shall be distributed to those in attendance at the meeting who have not voted by another method, and the ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee. After those members have been given an opportunity to vote at the meeting, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of mailed or electronic ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.

12.7(9) *Preservation of ballots.* Ballots shall be preserved according to the requirements of 189—12.9(533). The 60-day retention period required by subrule 12.9(2) shall run from the date the results are certified to the board by the election committee.

12.7(10) *Submission to superintendent.* The board of directors shall submit the dissolution to the superintendent for review before the dissolution becomes effective. The state credit union shall cease existence when the superintendent issues a certificate of dissolution. The board shall submit the following documentation:

- a.* A certified copy of the board minutes which contain the vote of the board of directors to approve the plan and to submit the dissolution to a vote of the membership.
- b.* A certified copy of the notices provided to members.
- c.* A certified copy of any ballots provided to members.
- d.* A certified statement, including the vote count, that a majority of the eligible members voted in favor of the proposed dissolution.
- e.* Proof that is satisfactory to the superintendent that all assets have been liquidated from which there is a reasonable expectance of realization, that the liabilities of the state credit union have been discharged and distribution made to its members, and that the liquidation has been completed.

12.7(11) *Publication of results.* The board shall inform the membership of the results of the vote according to the provisions of 189—12.10(533). The 60-day posting period required by subrule 12.10(1) shall run from the date the results are certified to the board by the election committee.

189—12.8(533) *Vote to remove or reinstate an officer, director, or member of the auditing committee.*

12.8(1) *Auditing committee vote.* If the auditing committee deems the action to be necessary to the proper conduct of the state credit union, the auditing committee may suspend, by majority vote, any officer, director, or member of the auditing committee.

12.8(2) *Subsequent vote of membership.* Following a vote by the auditing committee to suspend an officer, director, or member of the auditing committee, the suspension shall be put to a vote of the membership.

a. The members may vote to sustain the suspension and remove the officer, director, or auditing committee member permanently or may vote to reinstate the officer, director, or auditing committee member.

b. The board of directors shall meet to determine the method of voting for the membership vote and shall, within 30 days of the date of the auditing committee's vote, submit the issue to all eligible voters of record as of the date of the auditing committee's meeting. The board of directors shall, by majority vote, select the method of voting for the membership vote, in accordance with Iowa Code section 533.203. Each credit union member shall have a meaningful opportunity to vote in a membership vote. The board

of directors shall vote to conduct the vote in whole by electronic voting only if all members have access to an electronic voting device. If the number of members who have opted to receive notices electronically is less than all members, the board may provide access to an electronic device in each credit union office for the members to vote electronically in order to satisfy the access requirement. Otherwise, the board shall also conduct the vote in part by mail-in ballot or in person at a meeting held for the purpose of voting, pursuant to the requirements of this rule.

12.8(3) *Election committee.* The board shall appoint an election committee of not fewer than five members, no more than two of whom may be from the board of directors and none of whom may be from the auditing committee.

a. It is the duty of the election committee to oversee balloting, to tabulate votes, and to ensure that each member shall only be allowed to vote once and that multiple ballots submitted by the same member are disqualified.

b. The election committee shall elect a chairperson from among the committee members. If the balloting includes a vote taken at a meeting of members, the chairperson of the election committee shall announce the results of the election at the meeting; otherwise, the chairperson shall certify the vote to the board within five days of the close of balloting.

c. No member or agent of the election committee shall reveal the manner in which any member voted.

d. If the board of directors, by majority vote, has elected to utilize electronic voting, the election committee shall test the integrity of the electronic voting system at regular intervals during the election period. In the event of a malfunction of the electronic voting system, the board may in its discretion order the election to be held in another form, consistent with Iowa Code section 533.203.

e. For electronic ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as registered in the electronic voting system.

f. For mail-in ballots, including absentee ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as they appear on the identification form, to place the verified identification form and the sealed ballot envelope in a place of safekeeping pending the count of the vote, and, in the case of a questionable or challenged identification form, to retain the identification form and sealed ballot envelope together until the verification or challenge has been resolved.

12.8(4) *Notice of balloting.* The secretary shall set forth the suspension and proposed removal in a notice to all members eligible to vote at least 20 days but not more than 30 days prior to the closing date of balloting.

a. The notice shall set forth the rules and procedures for voting, the date of the close of balloting, that balloting is subject to an affirmative vote of a majority of all members eligible to vote, and that no other vote on the subject shall be taken after the closing date of balloting. The notice shall also contain a summary of the auditing committee's reasons for voting to suspend the officer, director, or member of the auditing committee, as well as a summary of the reasons, if known, that the officer, director, or member of the auditing committee believes that the officer, director, or member should be reinstated.

(1) The close of balloting shall be at least five days prior to any meeting where voting will occur.

(2) Electronic ballots shall be submitted no later than midnight on the date balloting closes in order to be considered valid.

(3) Ballots mailed to the credit union shall be postmarked no later than the closing date of balloting and received within five business days after the closing date of balloting in order to be considered valid.

(4) Ballots hand-delivered to the credit union shall be received prior to the close of normal credit union business hours on the closing date of balloting in order to be considered valid.

(5) If more than one method of voting will be used, the notice shall also communicate that members have the right to vote on the proposed removal through any of the methods of voting designated by the board, but that members will only be allowed to vote once.

b. The notice may be included in statements or newsletters, on the credit union Web site, or on signs posted in the credit union.

c. The notice may be sent electronically to those members who have opted to receive notices electronically.

12.8(5) Mailed ballots. If the board voted by majority vote to conduct the vote in whole or in part by mailed ballot:

a. The secretary shall include the following balloting materials with the notice of balloting:

(1) One ballot, clearly identified as the ballot.

(2) One ballot envelope clearly marked “ballot” with instructions that the completed ballot shall be placed in that envelope and sealed.

(3) One identification form to be completed so as to include the name, address, signature, and credit union account number of the voter.

(4) One mailing envelope in which the voter, following instructions provided, shall insert the sealed “ballot” envelope and the identification form. The mailing envelope shall be preaddressed for return to the election committee.

b. If the credit union will also be conducting electronic voting, the mail-in ballot is not required for members who have opted to receive notices or statements electronically, and electronic mail may be used to provide the instructions and notices for the electronic voting procedure.

c. Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and placed in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee.

d. If additional voting will be conducted at a meeting of members, the tallies shall be placed in the ballot boxes, and the ballot boxes shall be resealed to be taken to the meeting. If no other voting is scheduled to occur, the election committee shall tally the total votes and certify the vote count to the board no later than five days after the closing date of balloting.

12.8(6) Electronic voting. If the board voted by majority vote to conduct the vote in whole or in part by electronic voting:

a. The secretary shall include with the notice of balloting specific instructions for electronic voting, including how to access and use the electronic voting system, and the period of time in which votes will be taken.

b. For those members who have opted to receive notices or statements electronically, the instructions required under this subrule may be communicated electronically.

c. The electronic voting shall be tallied by the election committee prior to any meeting where voting is also scheduled to take place, and the committee shall take the tallies to the meeting. If no meeting is scheduled for voting, the election committee shall tally the votes and certify the vote count to the board no later than five days after the closing date of balloting.

12.8(7) Absentee ballots—subsequent in-person vote at meeting. If the board of directors, by majority vote, has elected to conduct the vote only in person at a meeting of members, the board may also, by majority vote, utilize absentee ballots when, in the opinion of the board, it is in the best interest of the credit union and its membership.

a. The secretary shall include with the notice of balloting a statement that members may vote either in person at the meeting of members or by absentee ballot if the member submits a written or electronic request for an absentee ballot and returns the ballot prior to the close of balloting.

b. The secretary shall mail the balloting materials specified in paragraph 12.8(5)“a” to each member who is eligible to vote and who has submitted a written or electronic request for an absentee ballot.

c. Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and deposited in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee, the tallies placed in the ballot boxes, and the ballot boxes resealed to be taken to the meeting.

d. At the meeting of members, printed ballots shall be given to those members who have not voted. The completed ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting. After the members have been given an opportunity to vote, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any

previous count of absentee ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.

12.8(8) *In-person vote at meeting.* If the board voted by majority vote to conduct the vote in whole or in part at a meeting of members, then printed ballots shall be distributed to those in attendance at the meeting who have not voted by another method, and the ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee. After those members have been given an opportunity to vote at the meeting, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of mailed or electronic ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.

12.8(9) *Preservation of ballots.* Ballots shall be preserved according to the requirements of 189—12.9(533). The 60-day retention period required by subrule 12.9(2) shall run from the date the results are certified to the board by the election committee.

12.8(10) *Publication of results.* The board shall inform the membership of the results of the vote according to the provisions of 189—12.10(533). The 60-day posting period required by subrule 12.10(1) shall run from the date the results are certified to the board by the election committee.

189—12.9(533) Preservation of ballots.

12.9(1) Immediately upon certification of the results of the vote by the election committee, any written ballots shall be sealed and appropriately labeled. Electronic vote results shall be saved electronically.

12.9(2) All ballots and voting results shall be retained by the credit union for at least 60 days, and until any disputes are resolved.

189—12.10(533) Reporting the results of the vote to the membership.

12.10(1) *Posting of results.* Except as otherwise provided for a membership vote, the board shall inform the membership of the results of the vote by conspicuously posting notice in each credit union office for a period of 60 days.

12.10(2) *Publication of results.* Except as otherwise provided for a membership vote, in addition to posting the results in each credit union office, the board shall also communicate the results to the membership by at least one of the following methods:

- a. Include the results in the next mailing of the member's statement of account.
- b. Include the results in the credit union newsletter.
- c. Include the results in the sponsor's newsletter.
- d. Post a notice on the credit union's Web site.
- e. Place a notice in a newspaper of general circulation within the geographic area of operation of the credit union.

189—12.11(533) Vote on sale of assets by corporate central credit union.

12.11(1) *Board of directors' vote.* A corporate central credit union that seeks to sell all of its assets to another corporate credit union shall proceed pursuant to a plan agreed upon by a favorable vote of a majority of directors. The board shall notify the superintendent within three days.

12.11(2) *Subsequent vote of the membership.* Following a vote by the board of directors to approve a plan to sell all of the corporate central credit union's assets to another corporate credit union, the board shall submit the plan to a vote of the membership.

a. The board shall submit the issue within 30 days of voting to approve the plan to all eligible voters of record as of the date of the vote by the board of directors.

b. The board of directors shall, by majority vote, select the method of voting for the membership vote, in accordance with Iowa Code section 533.203. Each credit union member shall have a meaningful opportunity to vote in a membership vote. The board of directors shall vote to conduct the vote in whole by electronic voting only if all members have access to an electronic voting device. Otherwise, the

board shall also conduct the vote in part by mail-in ballot or in person at a meeting held for the purpose of voting, pursuant to the requirements of this rule.

c. The approval of the sale is not final until approved by the superintendent after the membership vote.

12.11(3) Election committee. The board shall appoint an election committee of not fewer than five members, no more than two of whom may be from the board of directors.

a. It is the duty of the election committee to oversee balloting, to tabulate votes, and to ensure that each member shall only be allowed to vote once and that multiple ballots submitted by the same member are disqualified.

b. The election committee shall elect a chairperson from among the committee members. If the balloting includes a vote taken at a meeting of members, the chairperson of the election committee shall announce the results of the election at the meeting; otherwise, the chairperson shall certify the vote to the board within five days of the close of balloting.

c. No member or agent of the election committee shall reveal the manner in which any member voted.

d. If the board of directors, by majority vote, has elected to utilize electronic voting, the election committee shall test the integrity of the electronic voting system at regular intervals during the election period. In the event of a malfunction of the electronic voting system, the board may in its discretion order the election to be held in another form, consistent with Iowa Code section 533.203.

e. For electronic ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as registered in the electronic voting system.

f. For mail-in ballots, including absentee ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as they appear on the identification form, to place the verified identification form and the sealed ballot envelope in a place of safekeeping pending the count of the vote, and, in the case of a questionable or challenged identification form, to retain the identification form and sealed ballot envelope together until the verification or challenge has been resolved.

12.11(4) Notice of balloting. The secretary shall set forth the proposed sale in a notice to all members eligible to vote at least 20 days but not more than 30 days prior to the closing date of balloting.

a. The notice shall set forth the rules and procedures for voting, the date of the close of balloting, that balloting is subject to an affirmative vote of a majority of all members eligible to vote, and that no other vote on the subject shall be taken after the closing date of balloting. The notice shall also contain a summary of the board's reasons for selling the assets.

(1) The close of balloting shall be at least five days prior to any meeting where voting will occur.

(2) Electronic ballots shall be submitted no later than midnight on the date balloting closes in order to be considered valid.

(3) Ballots mailed to the credit union shall be postmarked no later than the closing date of balloting and received within five business days after the closing date of balloting in order to be considered valid.

(4) Ballots hand-delivered to the credit union shall be received prior to the close of normal credit union business hours on the closing date of balloting in order to be considered valid.

(5) If more than one method of voting will be used, the notice shall also communicate that members have the right to vote on the proposed sale through any of the methods of voting designated by the board, but that members will only be allowed to vote once.

b. The notice may be included in statements or newsletters or on the credit union Web site.

c. The notice may be sent electronically to those members who have opted to receive notices electronically.

12.11(5) Mailed ballots. If the board voted by majority vote to conduct the vote in whole or in part by mailed ballot:

a. The secretary shall include the following balloting materials with the notice of balloting:

(1) One ballot, clearly identified as the ballot.

(2) One ballot envelope clearly marked "ballot" with instructions that the completed ballot shall be placed in that envelope and sealed.

(3) One identification form to be completed so as to include the name, address, signature, and credit union account number of the voter.

(4) One mailing envelope in which the voter, following instructions provided, shall insert the sealed “ballot” envelope and the identification form. The mailing envelope shall be preaddressed for return to the election committee.

b. If the credit union will also be conducting electronic voting, the mail-in ballot is not required for members who have opted to receive notices or statements electronically, and electronic mail may be used to provide the instructions and notices for the electronic voting procedure.

c. Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and placed in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee.

d. If additional voting will be conducted at a meeting of members, the tallies shall be placed in the ballot boxes, and the ballot boxes shall be resealed to be taken to the meeting. If no other voting is scheduled to occur, the election committee shall tally the total votes and certify the vote count to the board no later than five days after the closing date of balloting.

12.11(6) *Electronic voting.* If the board voted by majority vote to conduct the vote in whole or in part by electronic voting:

a. The secretary shall include with the notice of balloting specific instructions for electronic voting, including how to access and use the electronic voting system, and the period of time in which votes will be taken.

b. For those members who have opted to receive notices or statements electronically, the instructions required under this subrule may be communicated electronically.

c. The electronic voting shall be tallied by the election committee prior to any meeting where voting is also scheduled to take place, and the committee shall take the tallies to the meeting. If no meeting is scheduled for voting, the election committee shall tally the votes and certify the vote count to the board no later than five days after the closing date of balloting.

12.11(7) *Absentee ballots—subsequent in-person vote at meeting.* If the board of directors, by majority vote, has elected to conduct the vote only in person at a meeting of members, the board may also, by majority vote, utilize absentee ballots when, in the opinion of the board, it is in the best interest of the credit union and its membership.

a. The secretary shall include with the notice of balloting a statement that members may vote either in person at the meeting of members or by absentee ballot if the member submits a written or electronic request for an absentee ballot and returns the ballot prior to the close of balloting.

b. The secretary shall mail the balloting materials specified in paragraph 12.11(5) “a” to each member who is eligible to vote and who has submitted a written or electronic request for an absentee ballot.

c. Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and deposited in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee, the tallies placed in the ballot boxes, and the ballot boxes resealed to be taken to the meeting.

d. At the meeting of members, printed ballots shall be given to those members who have not voted. The completed ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting. After the members have been given an opportunity to vote, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of absentee ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.

12.11(8) *In-person vote at meeting.* If the board voted by majority vote to conduct the vote in whole or in part at a meeting of members, then printed ballots shall be distributed to those in attendance at the meeting who have not voted by another method, and the ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee. After those members have been given an opportunity to vote at the meeting, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of mailed or electronic ballots.

The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.

12.11(9) *Preservation of ballots.* Ballots shall be preserved according to the requirements of 189—12.9(533). The 60-day retention period required by subrule 12.9(2) shall run from the date the results are certified to the board by the election committee.

12.11(10) *Submission to superintendent.* The board of directors shall submit the plan to the superintendent for approval before the plan to sell all of the assets of the corporate central credit union becomes effective. The board shall submit the following documentation in support of its request for approval:

- a.* A certified copy of the board minutes which contain the vote of the board of directors to approve the plan and to submit the sale to a vote of the membership.
- b.* A certified copy of the notices provided to members.
- c.* A certified copy of any ballots provided to members.
- d.* A certified statement, including the vote count, that a majority of the eligible members voted in favor of the proposed sale.

12.11(11) *Publication of results.* The board shall inform the membership of the results of the vote within ten days of certification of the results of the vote by the election committee. The board shall communicate the results to the membership by at least two of the following methods:

- a.* By mail.
- b.* By e-mail.
- c.* By posting a notice on the corporate central credit union's Web site.

189—12.12(533) *Vote on conversion of an Iowa-chartered credit union to another charter type.* An Iowa-chartered credit union that seeks to convert to another charter type shall comply with the conversion procedures, including a vote of the membership, as provided in 189—Chapter 3.

These rules are intended to implement Iowa Code sections 533.201, 533.203, 533.203A, 533.204, 533.208, 533.213, 533.401, 533.403, and 533.405.

ITEM 11. Rescind and reserve **189—Chapter 16.**

ITEM 12. Rescind and reserve **189—Chapter 19.**